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April 2008 Monthly Report for MTC

To: **Steve Heminger, Executive Director**
MTC

From: **Tom Bulger, President**
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Re: **Monthly Report for April 2008**

Date: **May 1, 2008**

- **House Appropriations Committee Hearing Regarding the National Surface Transportation Policy & Revenue Study Commission**
- **Senate Commerce Committee Hearing on the National Surface Transportation Policy & Revenue Study Commission**
- **Metropolitan Rail Authorization Discussion Group**
- **Meeting with Congressman Earl Blumenauer**
- **House Transportation & Infrastructure Committee Hearing on Metropolitan Mobility**
- **President Bush Signs SAFETEA Technical Corrections Bill**
- **Federal Highway Administration Reverses Course on CMAQ Decision**
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House Appropriations Committee Hearing Regarding the National Surface Transportation Policy & Revenue Study Commission

On April 2, 2008, Tom Bulger accompanied Mr. Steve Heminger to the House Appropriations Transportation Committee hearing regarding the National Surface Transportation Policy & Revenue Study Commission. During the hearing Mr. Heminger testified that the National Surface Transportation Policy & Revenue Study Commission recommends transportation investment in the range of $225 billion/year. This figure includes maximum tolling and the current investment of $85 billion/year by all levels of government and the private sector.

During the hearing a discussion ensued regarding whether motor fuel taxes are regressive or not. Chairman Obey (D-WI) stated that he dislikes the gas tax; however, he believes that it is needed to pay for transportation investments.

Attendees at the hearing included:

- Chairman Obey (D-WI)
- Sub-committee Chair Olver (D-MA)
- Sub-committee Ranking Member Knollenberg (R-MI)
- Rep Berry (D-AR)
- Rep Kaptur (D-OH)
- Rep Goode (R-VA)

Senate Commerce Committee Hearing on the National Surface Transportation Policy & Revenue Study Commission

On April 22, 2008, Tom Bulger accompanied Mr. Steve Heminger to the House Appropriations Transportation Committee hearing on the National Surface Transportation Policy & Revenue Study Commission. During the hearing Mr. Heminger testified along with other members of the National Surface Transportation Policy & Revenue Study Commission regarding the commission's final report. Below are some highlights of the hearing:

In her remarks, Senator Hutchison (R-TX) expressed opposition to the indexing of the gas tax referencing donor/donee issues. She also suggested the next transportation bill should devolve more of the revenue back to the states where the funding was generated. She also expressed concern regarding tolling existing lanes. Senator Hutchison concluded her remarks by expression support for transit and intercity rail. It should be noted that the Commissions report (and testimony) did not mention Amtrak.

Senator Smith (R-OR) detailed the costs of congestion in his opening remarks. He also stated that the Columbia River Bridge in his state needed to be replaced and that he supports the goal of reducing fatalities expressed by the commission's final recommendations. He asked the witnesses about what other nations are doing to reduce vehicular fatalities.

Senator Thune asked if the federal government should get out of transportation, the resounding answer was "no."

Metropolitan Rail Authorization Discussion Group

On April 14th, Tom Bulger participated in a metropolitan rail discussion group meeting concerning the authorization of federal transit programs. Data collection is under way. The group's recommendations will be presented at APTA meetings in Austin, Texas on May 4th and at the APTA rail conference in San Francisco on May 31st.

The coalition wants to develop a Business Transit Advocacy Group to support their authorization recommendations. The Chicago-land Business Group will do a national outreach. We need to determine who in the Bay Area would be the best fit, such as the Bay Area Council.

The coalition believes that a needs survey should be generated between state of good repair versus expansion needs. Chicago RTA will send out a form to all participants.

Meeting with Congressman Earl Blumenauer

On April 2nd, 2008, Steve Heminger and Tom Bulger met with Congressman Earl Blumenauer (D-OR) concerning the Congressman's proposed National Infrastructure Commission legislation. Under Congressman Blumenauer's infrastructure commission plan, a new commission on all national infrastructure would be created. The commission would take inventory of the national infrastructure and would draft a capital expansion and preservation plan. The legislation will be introduced the week of May 5th.

Congressman Blumenauer is also working to put together a transportation forum this fall where he hopes to invite the Presidential candidates. He also discussed his intent to put together local forums in every Congressional district this year.

House Transportation & Infrastructure Committee Hearing on Metropolitan Mobility

On April 9th, 2007 we attended a hearing conducted by the House Highways and Transit subcommittee focusing on 'Metropolitan Mobility'. The witnesses were as follows:

Ron Kirby – Executive Director Washington Metropolitan Council of Governments
Robert Puentes – Fellow, Brookings Institute
Ron Sims – Executive, King County, Washington
Jolene Molitoris – Assistant Director, Ohio DOT
Michael Wiles – General Manager, Sacramento Regional Transit

In his opening statement, Congressman Peter DeFazio (D-OR), Chair of the Highways & Transit subcommittee, outlined the problem and the challenges that metro areas face, and stated that easing congestion in metropolitan areas may be the most important topic in reauthorization.

The testimony delivered echoed the concerns and recommendations outlined by the National Surface Transportation Policy and Revenue Study Commission. All panelists agreed that there should be a focus on metropolitan mobility, but recognized that there are disagreements in how that should be done.

Congressman Oberstar, Chair of the full House & Transportation Infrastructure Committee noted that he wanted to see more resources directed to metropolitan governments and was curious of how funds were allocated in California; Michael Wiles answered his query by stating it was a part of state law. Chairman Oberstar then instructed his staff to take a look at the California law as a potential model for the rest of the nation.

President Bush Signs SAFETEA Technical Corrections Bill

After almost two weeks on the Senate floor, Congress finally cleared the SAFETEA technical corrections bill (HR 1195). The legislation primarily makes minor changes to SAFETEA as well as adjusts several hundred member project requests.

The legislation did include some noteworthy item, such as:

- A justice department investigation into how a project was changed in SAFETEA after it was passed by the House and Senate, but before it was presented to the President.

- A provision which outlines Congressional intent in regards to the Buy America provision, it states, that the current application by the Federal Highway Administration of the Buy America test that is only applied to components or parts of a bridge project and not the entire bridge project is inconsistent with this Sense of Congress. It should be noted that this provision is related to the SF/Oakland Bay Bridges SAS project.
- A provision clarifying the 5309 New Start program project justification by providing comparable, but not necessarily equal, numerical weight to each project justification criteria in calculating the overall project rating.
- Authorizing the state of California to use $3 million in funding provided through the FHWA emergency relief fund for transit operating and maintenance costs related to the collapse at the interchange connecting Interstate Routes 80, 580, and 880 near the San Francisco-Oakland Bay Bridge, on April 29, 2007. This provision was originally sponsored by Rep. Tauscher on behalf of the MTC. The provision was changed to reimburse Caltrans for transit related costs due to the accident.

Federal Highway Administration Reverses Course on CMAQ Decision

On April 8th, the Federal Highway Administration (FHWA) notified state and local officials that it has reversed its decision regarding the CMAQ provisions of the Energy Independence and Security Act. Originally, FHWA determined the legislative language in that bill required all CMAQ projects have an 80 percent federal share floor. However, after several months of meetings and discussions prompted in part by our action and the action of several of our colleagues, Federal Highways revised its findings based on Congressional intent. Below is the guidance outlined by FHWA in a memo on April 4th.

Energy Act Provisions: CMAQ Federal Share
Questions & Answers

1. *Does the Energy Act require specific federal shares for CMAQ projects?*
No. The Act provides that, in FY 2008 (as of December 20, 2007) and FY 2009, the federal share payable for CMAQ obligations may be up to 100 percent at the discretion of the state. However, states retain the flexibility to increase the non-federal share, as provided in 23 U.S.C. § 120(i).

2. *Does the Energy Act provision create a minimum federal share or "true floor" of 80 percent for CMAQ projects?*
No. The Office of Chief Counsel analyzed the provisions in 23 U.S.C. § 120 and determined that 23 U.S.C. § 120(i), which gives states the flexibility to increase the State share in a federal aid project, applies to the CMAQ provision in 23 U.S.C. § 120(c)(2). Consequently, there is no absolute minimum of 80 percent federal share. For example, public-private partnerships that had been planned for a 50-50 split can move forward for programming in plans and TIPs.

3. *Does the increased federal share provision apply to funds apportioned in years prior to FY 2008?*
Yes. The provision applies to CMAQ funds obligated in FY 08 and FY 09, regardless of the year of apportionment.

4. *Do states need to apply a uniform share statewide?*
No. The provision can be applied differently for each project under obligation.

5. *For states that make use of Advance Construction (AC), does the increased federal share provision apply to AC?*
An AC authorization is not an obligation of federal funds. When adequate obligation authority is available and the state seeks reimbursement for AC projects, any obligation of CMAQ funds occurring in FY 2008 or FY 2009 can reflect the amended provision for 100 percent CMAQ share.

6. *Will the CMAQ federal share provision continue after 2009?*
The provision is specific to funds obligated in FY 2008 and FY 2009. We are unable to predict whether it will be incorporated into the next reauthorization or any extension acts.

Changes Made to the DOT Urban Partnership Program

In April, New York City announced that it had failed to receive legislative authority to institute congestion pricing in lower Manhattan. As a result, DOT rescinded its Urban Partnership Agreement totaling over $350 million.

Later in April, DOT announced that Los Angeles and Chicago had been selected to receive the funding New York City forfeited.

Los Angeles will receive $213 million for its urban partnership program, the new federal funding will be used to convert up to 85 miles of local HOV highway lanes into high occupancy toll, or HOT, lanes by the end of 2010. Federal funds would help finance new bus service to run on the HOT lanes. The region has until October 15th to get the legislative authority needed to convert the existing HOV lanes into the new high occupancy toll lanes.

Chicago has also been selected to receive more than $153 million in federal funds under a new congestion initiative. The funding will be used to help fund four new bus rapid transit routes along heavily congested corridors in downtown Chicago, and the City will implement a high-tech, variable pricing system for all on-street parking to reduce congestion associated with circling cars and under priced parking. The federal funding is contingent, in part, on the city and the CTA adopting the necessary legal authorities. Also, the city must successfully move forward on its previously announced plans to privatize its metered parking system and enter into a long-term agreement with a private firm by December 31, 2008.

Senator John McCain, Republican Presidential Candidate, Proposes Gas Tax Holiday

With gas prices averaging nearly $4 dollars a gallon nationwide, Presidential hopeful John McCain proposed a summer gas tax holiday in order to provide respite for Americans.
The proposal, however, did not include a way in which the highway trust fund would be reimbursed. The proposal has been loudly denounced by Congressional Democrats and Republicans. While the proposal may be politically popular the many concerns of such action have been loudly expressed. Many believe that the consumer would not see the reduction in price that gas stations would continue to charge the same price or would only reduce the price slightly. Others have expressed the short sightedness of the proposal and referenced the impact

this would have on the highway trust fund and in turn jobs related to construction. Still others have noted that lowering the price of gas would only encourage additional consumption, which in turn would lead to higher gas prices caused by higher demand. With a large contingent of opposition being built, it is unlikely that this provision will be added into law.

The MTC requested that we work with Speaker Pelosi to oppose the gas holiday. Last Thursday, Speaker Pelosi issued her opposition to the gas holiday in a Press Conference at the Capital.

President Bush Offers a New National Goal on Greenhouse Gas Emissions

In April, President Bush announced a plan to stop the growth of greenhouse gas emissions by 2025. The proposal has been heavily criticized by environmentalists for being "too little, too late". The announcement came during the "Major Economies Meeting" in Paris and in advance of the G-8 climate change summit in July. Furthermore, the Bush administration challenged all the worlds' major powers to develop its own national goals and plans to reduce greenhouse gas emissions. In the proposal, the Bush administration stated that there was a right way and a wrong way to approach reducing greenhouse gas emissions. They opposed harsh and quick changes that would have a deep and far reaching impact on the US economy. The proposal denounced new taxes or mandates instead proposing a string of incentives and research challenges for business. The Senate is set to take up global warming legislation in June and is expected to be highly controversial.